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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION ONE

THE PEOPLE,

Plaintiff and Respondent,

v.

MICHAEL JOHN PEIRANO,

Defendant and Appellant.

A126321

(Humboldt County
Super. Ct. No. CR083858)

After the trial court denied his motion to suppress, defendant Michael John Peirano pleaded guilty to possession of a firearm by a convicted felon (Pen. Code, § 12021, subd. (a)(1)). The court placed defendant on three years' probation with no jail time.

Defendant's counsel has filed an opening brief that raises no issues and asks this court for an independent review of the record to determine whether there are any arguable issues. (See *People v. Wende* (1979) 25 Cal.3d 436.) Defendant was notified of his right to file a supplemental brief, but has not done so. We find no arguable issues and affirm.

Background

Sergeant Brian Taylor of the Humboldt County Sheriff's Department testified at the suppression hearing. At approximately 11:00 on the night of April 5, 2008, he was on duty with Trainee Deputy Zabo. The two were parked in a patrol car across the street from a Chevron station on Highway 299 in Willow Creek. They saw a blue Isuzu Trooper with an inoperable license plate lamp pull out of the gas station. The officers stopped the Isuzu and approached the driver's side.

The driver was defendant. Deputy Zabo told defendant why he was stopped, and asked him for his license and registration. The deputy also asked defendant if he had any contraband or weapons in the car. Defendant said that he did not.

Deputy Zabo asked defendant if he could search the Isuzu. Defendant replied, “No. Not tonight.” Sergeant Taylor thought defendant appeared to be nervous. Taylor remained by defendant’s car while Zabo walked back to the patrol car. Sergeant Taylor told Deputy Zabo to “go ahead and call the dog,” a ruse to suggest the officers had a drug-sniffing canine in their patrol car. Defendant’s response was, “[A]ll the dog’s gonna find is my pot.” Taylor asked defendant if he had marijuana in his car, and defendant said, “Yes.” Defendant told Taylor the marijuana was in a backpack on the front passenger seat.

Less than three minutes transpired from the initial traffic stop to defendant’s remark about the dog finding his marijuana.

The officers removed defendant from the car and handcuffed him. Deputy Zabo then removed the backpack from the car and searched it, finding marijuana and pills. Less than seven or eight minutes transpired between the initial traffic stop and the backpack search.

The officers searched the Isuzu and found a loaded .22 revolver in the glove box. The search “took a long time. The car was full of a lot of things.” About 35 minutes transpired from the initial stop to the finding of the firearm.

Discussion

In its written ruling denying defendant’s motion to suppress, the trial court found: (1) the initial traffic stop and detention were proper; (2) the ruse of the dog was legitimate and did nothing more than trigger defendant’s spontaneous remark about the dog finding his marijuana; (3) after that remark there was probable cause to search the Isuzu; and (4) the length of the detention was not excessive under the circumstances.

We have reviewed the record and find no arguable issues. Defendant was represented by counsel at all pertinent portions of the proceedings. We agree with the trial court’s analysis. The trial court properly denied the motion to suppress. Defendant

was properly advised of his constitutional rights and the consequences of his plea when he pleaded guilty. There were no errors in the proceedings.

Disposition

The judgment is affirmed.

Marchiano, P.J.

We concur:

Margulies, J.

Banke, J.